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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO		
10/040,099		10/19/2001	William P. Apps	RPC 0527 PUS	8834		
33171	7590	10/17/2003		EXAMINER			
KONSTAN 4010 E. 26T		DIAMOND		CHEN, JOSE V			
LOS ANGE		· <del>-</del>		ART UNIT PAPER NUMBER			
	ŕ			3637			
				DATE MAILED: 10/17/2003			

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)					
,	•	10/040,099	APPS, WILLIAM P.	8				
•	Office Action Summary	Examiner	Art Unit	<u> </u>				
		José V. Chen	3637					
Period fo	The MAILING DATE of this communication or Reply	appears on the cover shet with	the correspondenc address	,				
THE I - Exter after - If the - If NO - Failu - Any r	ORTENED STATUTORY PERIOD FOR REMAILING DATE OF THIS COMMUNICATIOnsions of time may be available under the provisions of 37 CFR SIX (6) MONTHS from the mailing date of this communication. period for reply specified above is less than thirty (30) days, a period for reply is specified above, the maximum statutory per to reply within the set or extended period for reply will, by stately received by the Office later than three months after the main displacement. See 37 CFR 1.704(b).	N. t.1.136(a). In no event, however, may a repreply within the statutory minimum of thirty iod will apply and will expire SIX (6) MONT stute, cause the application to become ABA	oly be timely filed  (30) days will be considered timely.  HS from the mailing date of this communica  NDONED (35 U.S.C. § 133).	tion.				
1)⊠	Responsive to communication(s) filed on	01 August 2003 .						
2a) <u></u>		This action is non-final.						
3)□								
Dispositi	on of Claims							
4)⊠	Claim(s) <u>1-42</u> is/are pending in the applica	tion.						
	4a) Of the above claim(s) <u>12</u> is/are withdraw	n from consideration.						
5) 🗌	Claim(s) is/are allowed.							
6)⊠	Claim(s) <u>1-11, 13-42</u> is/are rejected.							
•	Claim(s) is/are objected to.							
	Claim(s) are subject to restriction an on Papers	d/or election requirement.						
9) 🗌 .	The specification is objected to by the Exam	iner.		-				
10) 🗌 -	The drawing(s) filed on is/are: a)□ ad	ccepted or b) objected to by the	e Examiner.					
	Applicant may not request that any objection to	the drawing(s) be held in abeyar	nce. See 37 CFR 1.85(a).					
11) 🔲 -	The proposed drawing correction filed on	is: a)□ approved b)□ dis	sapproved by the Examiner.					
_	If approved, corrected drawings are required in	• •	•					
12)	The oath or declaration is objected to by the	Examiner.						
Priority u	ınder 35 U.S.C. §§ 119 and 120							
•	Acknowledgment is made of a claim for fore	eign priority under 35 U.S.C. §	119(a)-(d) or (f).					
a)[	☐ All b)☐ Some * c)☐ None of:							
	1. Certified copies of the priority docume	ents have been received.						
	2. Certified copies of the priority docume	ents have been received in Ap	plication No					
* S	3. Copies of the certified copies of the paper application from the International see the attached detailed Office action for a	Bureau (PCT Rule 17.2(a)).	_					
14) 🔲 🛕	cknowledgment is made of a claim for dome	estic priority under 35 U.S.C. §	119(e) (to a provisional application	ation).				
	)  The translation of the foreign language Acknowledgment is made of a claim for dom	•						
Attachment	•	· ·						
2) Notice	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449) Paper No(s	5) Notice of In	ummary (PTO-413) Paper No(s) formal Patent Application (PTO-152)	<b>-</b> ·				
S Datent and Tr	ademark Office							

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## **DETAILED ACTION**

#### Election/Restrictions

Claim 12 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

# Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-11, 13-42 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,389,990. Although the conflicting claims are not identical, they are not patentably distinct from each other because both teach a pallet assembly including a plurality of pallet members and a reinforcing member disposed therebetween.

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## C nclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Piper, Jr. et al teaches structure similar to applicant's.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José V. Chen whose telephone number is (703) 308-3229. The examiner can normally be reached on m-f,m-th 5:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703)308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-2168.

José V. Chen Primary Examiner Art Unit 3637

Chen/jvc 10-15-03